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ATTORNEY GENERALS OFFICE
HELENA, MONTANA

MONTANA FIRST JUDICIAL DISTRICT, LEWIS & CLARK COUNTY

THE STATE OF MONTANA, ex rel.
Mike McGrath, Attorney General,

Plaintiff,

v.

INTERCONTINENTAL PACIFIC
MANUFACTURING CORPORATION
a.k.a. MIGHTY CORPORATION,
a.k.a. LA CAMPANA FABRICA DE
TABACO, Inc., a.k.a. UNIVERSAL
HAMILTON, a.k.a. TOBACCO
INDUSTRIES OF THE PHILIPPINES,
a.k.a. STERLING COMPANY, a.k.a.
EARTH TOBACCO CORP, a.k.a.
HAMSPHERE MANUFACTURING
CORPORATION,

Defendant.

Cause No. CDV 2004-455

**ORDER OF DEFAULT
JUDGMENT**

This matter is before the Court on the Plaintiff's ex parte motion for default judgment against the Defendant. This Court having reviewed the motion and the entire record in this matter hereby finds as follows:

1-7-05
JAMIE DZIAK

1 1. Plaintiff is the Attorney General's Office of the State of Montana and,
2 pursuant to Mont. Code Ann. § 16-11-403, is authorized to bring this action to
3 enforce Montana's Tobacco Products Reserve Fund Act ("the Act").

4 2. Defendant, INTERCONTINENTAL PACIFIC MANUFACTURING
5 CORPORATION (INTERCONTINENTAL) is a corporate entity doing business in
6 India. It falls within the statutory definition of a tobacco product manufacturer in
7 Mont. Code Ann. § 16-11-401(9)(a).

8 3. INTERCONTINENTAL was properly served with the Summons and
9 Complaint on August 30, 2004, in accordance with the Montana Rules of Civil
10 Procedure.

11 4. At least 20 days have passed since the service of the Summons and
12 Complaint and INTERCONTINENTAL has failed to appear herein.

13 5. INTERCONTINENTAL is not an infant or incompetent.

14 6. Venue is proper pursuant to Mont. Code Ann. § 25-2-124.

15 7. Default was entered against INTERCONTINENTAL on January 5, 2005.

16 8. INTERCONTINENTAL has failed and continues to fail and/or
17 refuses to comply or otherwise bring itself into compliance with the Act.

18 9. INTERCONTINENTAL's actions constitute "knowing" violations.

19 10. INTERCONTINENTAL has failed to make the required annual
20 deposits for four years and has committed at least two knowing violation of the Act.

21 THEREFORE, INTERCONTINENTAL is in default and default judgment is
22 hereby entered against it as follows:

23 1. INTERCONTINENTAL shall, within 15 days of this Order, establish
24 a "qualified escrow fund" in full compliance with the requirements of Mont. Code
25 Ann. § 16-11-403(2)(c)(ii) in a form satisfactory to the Attorney General of the
26 State of Montana;

27

1 2. INTERCONTINENTAL shall, within 15 days of this Order, deposit
2 funds of at least \$16,630.74 for sales in year 2003 into a "qualified escrow fund" as
3 defined in Mont. Code Ann. § 16-11-403(2)(c)(ii) for the State of Montana;

4 3. INTERCONTINENTAL shall, within three days of the escrow
5 payment being made as ordered above, file with the Attorney General's Office of
6 Montana a Certificate of Compliance in a form satisfactory to the Attorney General
7 of the State of Montana as required under Mont. Code Ann. § 16-11-403(2)(c);

8 4. INTERCONTINENTAL shall, within 15 days of this Order, submit an
9 accounting of the unit sales of each cigarette brand sold to consumers in the State of
10 Montana through a distributor, retailer, or similar intermediary or intermediaries, to
11 the satisfaction of the Attorney General's Office of Montana. The accounting shall
12 include a summary report disclosing the contractual and other relationships between
13 INTERCONTINENTAL and its successors, affiliates, subsidiaries, distributors,
14 importers, wholesalers, and retailers as required by the Attorney General or his
15 designee to audit, examine, reconcile, and confirm the unit sales accounting provided;

16 5. INTERCONTINENTAL shall, within 15 days of this Order, pay
17 the maximum civil penalty under the requirements of Mont. Code Ann.
18 § 16-11-403(2)(c)(ii) of \$49,892.22;

19 6. INTERCONTINENTAL shall, within 15 days of this Order, pay
20 service costs of \$1029.45;

21 7. INTERCONTINENTAL shall, within 15 days of this Order, pay the
22 costs of investigation, costs of suit, and reasonable attorney's fees in the amount of
23 \$287.66; and

24 8. INTERCONTINENTAL shall pay post-judgment interest in the
25 amount of 10% per annum as allowed by Mont. Code Ann. § 25-9-205.

26 This Court retains jurisdiction over this matter in order to administer and
27 enforce its terms and to make amendments to reflect any additional sales by

INTERCONTINENTAL based upon affidavits or declarations filed by the State substantiating any new information of additional sales discovered, or new determinations made by the State regarding sales attributed previously to others during the relevant sales years which should be reattributed to the Defendants.

MONEY JUDGMENT

1) Name/Address of Judgment Creditor:

State of Montana
c/o Attorney General's Office
215 N. Sanders
Helena, MT 59601

2) Name/Address/Phone of Judgment Creditor's Attorney:

Ms. Kelly M. O'Sullivan
Assistant Attorney General
215 N. Sanders
P.O. Box 201401
Helena, MT 59620-1401

3) Name/Address of Judgment Debtors:

Intercontinental Pacific Manufacturing Corporation
#55 McAurthur Highway
Barrio Tikay, Malolos
Bulcan, Philippines 3000

Its successors, affiliates and/or assigns.

4) Principal Amount of Judgment for Escrow:	\$16,630.74
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5) Principal Amount of Judgment for Penalties:	\$49,892.22
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6) Costs, Investigative Costs and Reasonable Attorney's Fees:	<u>\$1,317.11</u>
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Total	\$67,840.07
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7) Post-Judgment Interest--Pursuant to Mont. Code Ann. § 25-9-205 on the total judgment which consists of the amounts in paragraphs 4, 5, and 6 above (\$67,840.07) from the date judgment is entered until fully paid.

JUDGMENT IS FURTHER ENTERED AS FOLLOWS:

INTERCONTINENTAL, and its agents, servants, employees, representatives, subsidiaries, successors, affiliates, and all persons acting in concert with it, should be permanently enjoined and restrained from selling any cigarette as defined in Mont. Code Ann. § 16-11-402(4) that it may “manufacture” or “purchase for resale” as contemplated by Mont. Code Ann. § 16-11-402(9) to consumers within the State of Montana, whether directly or through a distributor, retailer, or similar intermediary or intermediaries for a period of two years from the date that Defendants achieve compliance with the requirements of Mont. Code Ann. § 16-11-403 to the satisfaction of the Montana Attorney General, including but not limited to the following brands: Sixty-1 cigarettes, little cigars, and RYO.

The injunction against further sales by INTERCONTINENTAL shall continue for two years from the date of the Order.

This Court retains jurisdiction over this matter in order to administer and enforce its terms and to make amendments to reflect any additional sales by INTERCONTINENTAL based upon affidavits or declarations filed by the State substantiating any new information of additional sales discovered, or new determinations made by the State regarding sales attributed previously to others during the relevant sales years which should be reattributed to the Defendants.

DATED this 7 day of January, 2005.

THOMAS C. HONZEL

DISTRICT COURT JUDGE

c: Ms. Kelly O'Sullivan
INTERCONTINENTAL